

HEARING DATE AND TIME: September 26, 2011 at 9:45 a.m. (Eastern Time)  
RESPONSE DEADLINE: September 19, 2011 at 4:00 p.m. (Eastern Time)

Edoardo Rigo Salvatore (CA Bar No. 224207)

(*Pro Hac Vice pending*)

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Attorneys for Claimants:

Aranzuza Mejia, Juan Carlos Mejia, Maria Alejandra Mejia

Aranzuza Mejia as *guardian ad litem* of

Lucas Mejia, Nicolas Mejia, and Santiago Mejia

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

|                                     |                          |
|-------------------------------------|--------------------------|
| -----X                              |                          |
| In re                               | : Chapter 11 Case No.    |
|                                     | :                        |
| MOTORS LIQUIDATION COMPANY, et al., | : 09-50026 (REG)         |
| f/k/a General Motors Corp., et al.  | :                        |
|                                     | :                        |
| Debtors.                            | : (Jointly Administered) |
|                                     | :                        |
| -----X                              |                          |

**CLAIMANTS' RESPONSE TO THE 245TH OMNIBUS OBJECTION TO CLAIMS  
AND CLAIMANTS' OPPOSITION TO MOTION REQUESTING  
ENFORCEMENT OF BAR DATE ORDERS  
(Late-Filed Claims)**

TO THE HONORABLE ROBERT E. GERBER,  
UNITED STATES BANKRUPTCY JUDGE:

Claimants Aranzuza Mejia, Juan Carlos Mejia, Maria Alejandra Mejia, and Aranzuza  
Mejia as *guardian ad litem* of Lucas Mejia, Nicolas Mejia, and Santiago Mejia (collectively, the  
"Mejia Claims") respectfully request that this court deny the relief requested in the 245th

omnibus objection to claims and the motion requesting enforcement of bar date orders. The **Mejia Claims** cannot be "disallowed and expunged in their entirety" because (1) none of the Bar Date Orders cited by the **Debtors** relate to or can be applied to bar "future claims" for mass torts products liability personal injury claims; and (2) even if the court finds that the Bar Orders encompass the Mejia Claims, the claims cannot be "disallowed and expunged in their entirety" because the Bar Orders lack the adequate notice required by the Due Process Clause.

### **The Mejia Claims**

The **Mejia Claims** are mass torts product liability claims for wrongful death and personal injury which arose from a catastrophic automobile accident which occurred on **June 20, 2009** (See *Exhibit "A"* annexed hereto). On that date, the entire Mejia family was returning home after attending a special Catholic Mass when their 2003 SUV Chevrolet Trailblazer overturned and rolled over several times. Javier Mejia (15-years-old) and Graciella Villamizar (69-years-old) were fatally wounded and died immediately after the accident. The rest of the family also suffered moderate to severe injuries. The surviving family members filed Proofs of Claim on June 17, 2011 (See *Exhibit "B"* annexed hereto).

### **The Bar Date Orders**

In support for their objection and motion to disallow and expunge the **Mejia Claims**, **Debtors** have invoked and relied upon the Bar Date Orders, and specifically the "**Initial Bar Date Order**" (ECF No. 4079), which only apply to claims that arose prior to **June 1, 2009**.

On September 16, 2009, this Court entered the initial Debtors Bar Date Order establishing **November 30, 2009** as the deadline for each person or entity to file a proof of claim in the initial Debtors' cases. The corresponding "**Notice of Deadline for filing Proofs of Claim**

**(Including Claims Under Section 503(B)(9) of the Bankruptcy Code)**" specifically states *inter alia*:

PLEASE TAKE NOTICE THAT, on September 16, 2009, the United States Bankruptcy Court for the Southern District of New York (the "**Court**"), having jurisdiction over the chapter 11 cases of Motors Liquidation Company (f/k/a General Motors Corporation) and its affiliated debtors, as debtors in possession (collectively, the "**Debtors**") entered an order (the "**Bar Date Order**") establishing (i) **November 30, 2009, at 5:00 p.m. (Eastern Time)** as the last date and time for each person or entity (including, without limitation, individuals, partnerships, corporations, joint ventures, and trusts) to file a proof of claim ("Proof of Claim") based on prepetition claims, including a claim under section 503(b)(9) of the Bankruptcy Code, as described more fully below (a "**503 (b)(9) Claim**"), against any of the Debtors (the "**General Bar Date**"); and (ii) **November 30, 2009 at 5:00 p.m. (Eastern Time)** as the last date and time for each governmental unit (as defined in section 101(27) of the Bankruptcy Code) to file a Proof of Claim based on prepetition claims against any of the Debtors (the "**Governmental Bar Date**" and, together with the General Bar Date, the "**Bar Dates**").

The Bar Date Order, the Bar Dates and the procedures set forth below for the filing of Proofs of Claim apply to all claims against the Debtors (other than those set forth below as being specifically excluded) that arose prior to **June 1, 2009**, the date on which the Debtors commenced their cases under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**").

(. . .)

#### 1. WHO MUST FILE A PROOF OF CLAIM

You **MUST** file a **Proof of Claim** to vote on a chapter 11 plan filed by the Debtors or to share in any of the Debtors' estates if you have a claim that arose prior to **June 1, 2009**, including a 503(b)(9) Claim, and it is not one of the other types of claims described in Section 2 below. Acts or omissions of the Debtors that arose before **June 1, 2009** may give rise to claims against the Debtors that must be filed by the applicable Bar Date, notwithstanding that such claims may not have matured or become fixed or liquidated or certain prior to **June 1, 2009**. (*Emphasis in the original*).

Clearly the Initial Bar Date Order is limited to "prepetition" claims and those which could be ascertainable prior to June 1, 2009 but not yet "matured," "fixed," "liquidated," or "certain."

The **Mejia Claims** for wrongful death and personal injury neither (1) arose prior to **June 1,**

**2009**; nor (2) did they exist although "may not have matured or become fixed, or liquidated or certain prior to **June 1, 2009**. Regardless of the Debtor's prepetition wrongful conduct, the **Mejia claims** simply did not exist at all prior to **June 20, 2009**. Therefore, the claims contemplated in the Bar Date Orders do not include the Mejia claims, and as such they cannot be "disallowed and expunged in their entirety."

But, even if the court finds that the Bar Orders encompass the Mejia Claims, the claims cannot be discharged because the Bar Orders lack the adequate notice required by the Due Process Clause.

#### **Future "Claims" and the Due Process Clause**

Bankruptcy proceedings and the discharge of any claim therein are subject to the constitutional requirements of the Due Process Clause. When a debtor does not provide a potential claimant with adequate notice and opportunity to be heard, the claim cannot be discharged. See, *City of New York v. New York, New Haven & Hartford R.R. Co.*, 344 U.S. 293, 296-97 (1953); *Adam Glass Service, Inc. v. Federated Department Stores, Inc.*, 173 B.R. 840, 843 (E.D.N.Y. 1994); *In re Union Hospital Assoc.*, 226 B.R. 134, 138 (Bankr. S.D.N.Y. 1998); *In re Emons Industries, Inc.*, 220 B.R. 182, 192 (Bankr. S.D.N.Y. 1998) (**holding that future claimants who did not receive notice of bar date could file late claims, but were bound by provisions of plan**).

In widening the definition of the term "claim," the Bankruptcy Code of 1978 created an unintended conflict between two policies relating to mass tort cases. On the one hand is the bankruptcy goal of final resolution of claims arising from actionable prepetition conduct, and on the other is the individual due process rights of anyone who has been harmed, or may be

harm in the future, by the debtor's prepetition conduct. In this case the due process rights of the Meija claimants should outweigh the bankruptcy goal of final resolution of all claims.

In attempting to resolve this conflict, courts have interpreted the definition of "claim" in three different ways: **1)** to exclude claimants who the court believes cannot be afforded "adequate notice" under due process (*In re Fairchild Aircraft Corp.*, 184 B.R. 910 (Bankr. W.D. Tex. 1995), vacated, 220 B.R. 909 (Bankr. W.D. Tex. 1998)); **2)** to include even the claims that are not identifiable by the debtor and finding the Due Process Clause to require only constructive notice (*In re Storage Technology Corp.*, 117 B.R. 610 (Bankr. D. Colo. 1990); *In re Production Plating, Inc.*, 90 B.R. 277 (1988)); and **3)** to satisfy the requirements of due process by the appointment of future claims representatives to whom adequate notice can be given (*In re Johns-Manville Corp.*, 68 B.R. 618 (Bankr. S.D.N.Y. 1986), aff'd in part and rev'd in part, 78 B.R. 407 (S.D.N.Y. 1987), aff'd, 843 F.2d 636 (2d Cir. 1988); *In re A.H. Robins Co.*, 88 B.R. 742, 744 (E.D. Va. 1988), aff'd, 880 F.2d 694 (4th Cir. 1989)).

Moreover, in applying the definition of "claim" to future claims, some circuit courts including the Second Circuit, have applied the "**conduct test**" finding that a "claim" arises whenever the debtor's prepetition conduct may cause harm in the future, even if the harm has not occurred or has not been discovered at the time of the bankruptcy filing. But the courts have found that future claims may be included only if the debtor takes sufficient action to ensure procedural due process is satisfied. See *In re Emons Industries, Inc.*, 220 B.R. 182, 193-94 (Bankr. S.D.N.Y. 1998); *In re Texaco, Inc.*, 182 B.R. 937, 951-52 (Bankr. S.D.N.Y. 1995); *In re Johns-Manville Corp.*, 57 B.R. 680, 690 (Bankr. S.D.N.Y. 1986); *In re Johns-Manville Corp.*, 36 B.R. 743, 750 (Bankr. S.D.N.Y. 1984), aff'd, 52 B.R. 940 (S.D.N.Y. 1985).

Likewise, when "adequate notice" under due process had not been provided to holders of future asbestosis claims of former employees who had not been diagnosed with the disease prior to petition, their claims could not be discharged. See *In re Waterman Steamship Corporation*, 141 B.R. 552 (Bankr. S.D.N.Y. 1992), vacated, 157 B.R. 220 (S.D.N.Y. 1993) and remanded for determination of adequacy of notice given to future claimants.

**Due Process Requires That The Mejia Claims Not Be Barred**

Notice is "an elementary and fundamental requirement of due process in any proceeding which is to be accorded finality." See *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950). The court found that "[k]nown present beneficiaries of known place of residence" were entitled to receive personal notice by mail and other claimants "whose interest or whereabouts could not **with due diligence** be ascertained" could be given constructive notice by publication. *Id.* (Emphasis added). Therefore *Mullane* allows notice by publication only when the potential claimants are "missing or unknown."

In bankruptcy cases, consistent with *Mullane*, courts have held that, when the debtor knows the identity of the holder of a claim, personal notice (rather than notice by publication) is constitutionally required, even when the recipient of the notice has actual knowledge of the bankruptcy case. See *City of New York v. New York, New Haven & Hartford R.R. Co.*, 344 U.S. 293, 296-97 (1953); *In re Brunswick Hospital Center, Inc.*, 1997 WL 836684 (Bankr. E.D.N.Y. 1997); *In re Drexel Burnham Lambert Group Inc.*, 151 B.R. 674, 682 (Bankr. S.D.N.Y. 1993); *In re Interstate Cigar Co.*, 150 B.R. 305, 310 (Bankr. E.D.N.Y. 1993); *In re Waterman Steamship Corp.*, 141 B.R. 552, 558 (Bankr. S.D.N.Y. 1992), vacated and remanded, 157 B.R. 220 (S.D.N.Y. 1993); *In re General Oil Distributors, Inc.*, 68 B.R. 603, 604 (Bankr. E.D.N.Y. 1986).

The Mejia claimants were entitled to personal notice because their claims were capable of being ascertained after June 20, 2009. In addition, even before the claims arose, the trustees failed to appoint a "future claims representatives" to whom adequate notice could be given to protect the Mejia claimants and their future claims. The trustees and/or a future claims representative could have become aware, through the exercise of reasonable diligence, as it became known in the public domain, of a fatal automobile accident involving a 2003 SUV Chevrolet Trailblazer, which claimed the lives of two people and injured six others. Furthermore, the Mejia claimants had a relationship and were in privity with General Motors Corporation: they purchased the vehicle brand new from a GM dealer and they had regular maintenance work performed by a GM dealer. They received no personal notice of the bankruptcy deadline to file claims.

An important policy and objective of bankruptcy proceedings is to provide the same treatment and opportunity for equitable compensation to all persons who have suffered harm due to the wrongful conduct of debtors. Given the Mejia claimants so little time to become aware of a potential products liability claim when they were afflicted by their injuries seems inconsistent with that policy. Even if they had seen the published notice or if they had been aware of the filing of the General Motors Corporation's bankruptcy, they would fall under the class of "unselfconscious " to which the Supreme Court adverted to in *Amchem Products, Inc. v. Windsor*, 521 U.S. 591 (1997). Meaning in the short period of time between **June 20, 2009** and **November 30, 2009**, even if the Mejia claimants could have become aware of the bankruptcy and had seen the published notice of deadline to file claims, they would not have recognized

themselves as having a sophisticated potential products liability claims against debtors. As the court noted in *Mullane*, "process which is a mere gesture is not due process."

Finally, it should be noted that the **Mejia claims** include claims for minors, who were "incompetent" to assert a claim before the deadline of **November 30, 2009** and unless a personal representative is appointed by the court under Rule 7017 of the *Federal Rules of Bankruptcy Procedure*, they continue to hold the rights guaranteed to them by the Constitution under the Due Process Clause. "Notice to a person known to be an incompetent who is without the protection of a guardian" does not satisfy *Mullane*. See *Convey v. Town of Summers*, 351 U.S. 141 (1956). Furthermore, the other Mejia claimants were also constructively "incompetent" for purpose of the bankruptcy case because before the deadline of **November 30, 2009**, they could not recognize that they had a potential claim in the bankruptcy case and therefore were not aware of when and how to assert a claim. Notice by publication is not adequate notice for those future claimants who are not aware of their potential claims and are thus incapable of representing their own interest in the bankruptcy case. The Supreme Court has recognized the deficiency of constructive notice for those incapable of understanding it. *Id* at 146. Therefore, for the **Mejia Claims**, absent personal notice by mail, "adequate notice" could have only been given to a *guardian ad litem* or a future claims representative. Therefore, adequate notice could not have been given to the Mejia minors and at the very least, these claims should survive.

### **Conclusion**

Holders of future post-petition Products Liability personal injury claims present a challenge to Bankruptcy courts. Nevertheless, they are entitled in equity to full consideration and fairness as well as constitutionally required due process. The holder of a claim who does not know about it cannot protect his or her rights. Bankruptcy courts have the power under Rule

7017 of the *Bankruptcy Code* to appoint guardians or representatives to protect the interest of the "incompetent" claimants in bankruptcy proceedings. The Mejia claimants respectfully request that this court deny the relief requested in the 245th omnibus objection to claims and the motion requesting enforcement of bar date orders.

Dated: Laguna Beach, California  
September 19, 2011

/s/ Edoardo Rigo Salvatore  
Edoardo Rigo Salvatore (CA Bar No. 224207)

SALVATORE & NOKES LLP  
410 Broadway, Suite 100  
Laguna Beach, CA 92651  
(949) 494-0909  
Attorneys

# **EXHIBIT 1 - COLLISION REPORT**

## Highway Collision Report

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Interstate 85 South of Jimmy Carter Blvd.  
Norcross, Georgia  
June 20, 2009

Gwinnett County Police Case Number 09-0059574

Inv. M.Ricciardi #729



Case Number: 09-0059574  
June 20, 2009

Gwinnett County Police Department  
770 Hi-Hope Road  
Lawrenceville, GA 30045

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## Deceased

Graciela Villamizar  
3151 Shanty Court  
Kennesaw, GA 30144  
Hispanic / female / 67 y.o.a.  
D.O.B. 05/28/1942

Javier Majia  
3151 Shanty Court  
Kennesaw, GA 30144  
Hispanic / male / 15 y.o.a.

## Criminal Charges

1 Failure to Maintain Lane 40-6-48

## Date / Time

Saturday June 20,2009 1308 hours

## Location

Interstate 85 Southbound south Jimmy Carter Blvd.

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### **COLLISION REPORT**

Inv. M.Ricciardi #729

## Collision Scenario

Driver #1, Maria Mejia, was driving southbound on Interstate 85. Her vehicle was in the second lane from the right. She believed that a collision was imminent the vehicle in the lane to her right which had merged onto the highway. Ms Mejia attempted a maneuver to prevent a collision. This caused her to lose control of her vehicle and the vehicle to overturn. Two passengers were ejected from the vehicle and subsequently died from their injuries.

## Vehicles

1. 2003 Chevrolet Trailblazer  
VIN: 1GNES16S536218975  
Registered Owner: Juan C. Mejia  
P.O. Box 6098  
3151 Shanty Court NW  
Kennesaw, GA 30144  
Driver: Alejandra Mejia
2. 1994 BMW 318IS  
VIN: WBABE5327RJA08897  
Registered Owner: Roman Staniszewski  
2825 Duar Terrace  
North Port, FL 34291  
Driver: Ashton Staniszewski

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## Witnesses

- |    |   |                          |
|----|---|--------------------------|
| 1. | Ofc. J. Santiago #1122<br>Gwinnett County Police Department<br>P.O. Box 602<br>Lawrenceville, GA 30046<br>(770) 513-5100                            | Responding Officer       |
| 2. | Ofc. V. Difatta #1170<br>Gwinnett County Police Department<br>P.O. Box 602<br>Lawrenceville, GA 30046<br>(770) 513-5100                             | Responding Officer       |
| 3. | Sgt. D.A. Llorens #426<br>Gwinnett County Police Department<br>P.O. Box 602<br>Lawrenceville, GA 30046<br>(770) 513-5100                            | District 1 Supervisor    |
| 4. | Ofc. B. Pillon #906<br>Gwinnett County Police Department<br>P.O. Box 602<br>Lawrenceville, GA 30046<br>Work Phone: (770) 513-5000                   | Responding Officer       |
| 5. | Sgt. T.W. Smith #257<br>Gwinnett County Police Department<br>P.O. Box 602<br>Lawrenceville, GA 30046<br>Work Phone: (770) 513-5000                  | A.I.U. Supervisor        |
| 6. | Inv. M. Ricciardi #729<br>Gwinnett County Police Department<br>P.O. Box 602<br>Lawrenceville, GA 30046<br>Work Phone: (770) 338-7430 x5672          | Lead A.I.U. Investigator |
| 7. | Mr. Ted Bailey<br>Gwinnett County Medical Examiner's Office<br>175 Langley Drive Suite E-1<br>Lawrenceville, GA 30045<br>Work Phone: (770) 513-7400 | M.E. Investigator        |

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### **COLLISION REPORT**

Inv. M. Ricciardi #729

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| 8.   | Dr. Michele T. Stauffenberg, M.D.<br>Gwinnett County Medical Examiner's Office<br>175 Langley Drive Suite E-1<br>Lawrenceville, GA 30045<br>Work Phone: (770) 513-7400 | Medical Examiner    |
| <br> |  |                     |
| 9.   | Ms Maria Alejandra Mejia<br>3151 Shanty Court<br>Kennesaw, GA 30144<br>Phone: (770) 794-0794   | Driver #1           |
| <br> |  |                     |
| 10.  | Mr. Ashton Staniszewski<br>6357 Aarons Way<br>Flowery Branch, GA 30542<br>Phone: (941) 457-9230  | Driver #2           |
| <br> |  |                     |
| 11.  | Ofc. R. Broccoli, #922<br>Gwinnett County Police Department<br>P.O. Box 602<br>Lawrenceville, GA 30046<br>Work Phone: (770) 513-5000                                   | Traffic Control     |
| <br> |  |                     |
| 12.  | Sgt. J. Patterson, #193<br>Gwinnett County Police Department<br>P.O. Box 602<br>Lawrenceville, GA 30046<br>Work Phone: (770) 513-5000                                  | Traffic Control     |
| <br> |  |                     |
| 13.  | Inv. CR King, #930<br>Gwinnett County Police Department<br>P.O. Box 602<br>Lawrenceville, GA 30046<br>Work Phone: (770) 513-5000                                       | A.I.U. Investigator |
| <br> |  |                     |
| 14.  | Ofc. C. Long, #739<br>Gwinnett County Police Department<br>P.O. Box 602<br>Lawrenceville, GA 30046<br>Work Phone: (770) 513-5000                                       | Traffic Control     |

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**COLLISION REPORT**

Inv. M.Ricciardi #729

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09-0059574

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|-----|---|-----------------------|
| 15. | Ofc. J. West, #669<br>Gwinnett County Police Department<br>P.O. Box 602<br>Lawrenceville, GA 30046<br>Work Phone: (770) 513-5000        | Traffic Control       |
| 16. | Ofc. MJ Pihera, #868<br>Gwinnett County Police Department<br>P.O. Box 602<br>Lawrenceville, GA 30046<br>Work Phone: (770) 513-5000      | Traffic Control       |
| 17. | Sgt. R.J. Huckabey, #299<br>Gwinnett County Police Department<br>P.O. Box 602<br>Lawrenceville, GA 30046<br>Work Phone: (770) 513-5000  | Responding Supervisor |
| 18. | Ofc. I. Caldwell, #1107<br>Gwinnett County Police Department<br>P.O. Box 602<br>Lawrenceville, GA 30046<br>Work Phone: (770) 513-5000   | Traffic Control       |
| 19. | Inv. M.A. Niziurski, #820<br>Gwinnett County Police Department<br>P.O. Box 602<br>Lawrenceville, GA 30046<br>Work Phone: (770) 513-5000 | A.I.U. Investigator   |
| 20. | Ofc. E.C. Adams, #1275<br>Gwinnett County Police Department<br>P.O. Box 602<br>Lawrenceville, GA 30046<br>Work Phone: (770) 513-5000    | Traffic Control       |
| 21. | Ofc. MB Hollub, #1046<br>Gwinnett County Police Department<br>P.O. Box 602<br>Lawrenceville, GA 30046<br>Work Phone: (770) 513-5000     | Traffic Control       |

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**COLLISION REPORT**

Inv. M.Ricciardi #729

- |      |   |         |
|------|---|---------|
| 22.  | Ms Melissa Colwell<br>102 Colonial Dr.<br>Toccoa, GA 30577<br>Phone: (678) 446-1259               | Witness |
| <br> |   |         |
| 23.  | Mr. Andrew D. Johnson<br>5595 Princeton Oaks Dr.<br>Sugar Hill, GA 30518<br>Phone: (678) 886-6015 | Witness |
| <br> |   |         |
| 24.  | Mr. Luke Crown<br>3775 John Herndon Ct.<br>Suwanee, GA 30024                                      | Witness |
| <br> |   |         |
| 25.  | Mr. Anthony Roides<br>3248 Trinity Mill Cir.<br>Atlanta, GA 30301                                 | Witness |
| <br> |   |         |
| 26.  | Mr. Samuel Edward Green<br>65 Ridgeview Trl. S.E.<br>Cartersville, GA 30120                       | Witness |
| <br> |   |         |
| 27.  | Mr. John Barnette<br>1060 Wetherburn Way<br>Watkinsville, GA 30677<br>Phone: (706) 769-5029       | Witness |
| <br> |   |         |
| 28.  | Ms Britni Galaviz<br>4481 Plantation Mill Trl.<br>Buford, GA 30519<br>Phone: (770) 905-4610       | Witness |
| <br> |   |         |
| 29.  | Mr. Edwin M Halkyard IV<br>5034 Ravenwood Dr.<br>Marietta, GA 30066<br>Phone: (770) 591-8321      | Witness |

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**COLLISION REPORT**

Inv. M. Ricciardi #729

## Exhibits

- E-1 Original State of Georgia Collision Report, Form DMVS523, Case 09-0059574  
Completed by: Inv M. Ricciardi #729, Completed on: June 20,2009.
- E-2 Gwinnett County Police Department Computer Aided Dispatch (CAD) call, Police Call  
#P091710822, Generated on: June 20,2009.
- E-3 Gwinnett County Police Department Computer Aided Dispatch (CAD) call, Fire call  
#F09032069, Generated on June 20,2009.
- E-4 Gwinnett County Police Department Impound Form, 2003 Chevrolet Trail Blazer, Beige,  
Georgia Registration: APX4856, VIN: 1GNES16S536218975, Registered to: Juan Carlos  
Mejia, completed by Ofc I. Caldwell #1107.
- E-5 Gwinnett County Police Department Impound Form , 1994 BMW 318IS, Black, Florida  
Registration: J555LI, VIN: WBABE5327RJA08897, Registered to: Roman Staniszewski,  
completed by Ofc. MB Hollub #1046.
- E-6 Gwinnett County Medical Examiner's Report, Case # 09G-0529 for Graciela Villamizar  
completed on June 22,2009 by Dr. Michele T. Stauffenberg, M.D..
- E-7 Gwinnett county Medical Examiner's Report, Case # 09G-0530 for Francisco Javier Mejia  
Completed on June 20, 2009, by Dr. Michele T. Stauffenberg, M.D..
- E-8 Gwinnett County Police Department Accident Investigation Unit Vehicle Inventory and  
Inspection Report, 16 pages, completed on June 22, 2009 by Inv. M. Ricciardi #729.
- E-9 Witness Statements , 13 pages, collected by Inv. M. Ricciardi #729.
- E-10 Crash Data Retrieval System Report for Vehicle #1, down loaded on June 24, 2009 by  
Inv. CR King, #930.
- E-10 Final State of Georgia Collision Report, Form DMV523, Case# 09-059541  
Completed by Inv. M. Ricciardi #729, Completed on October 15,2009.

## **Fatality Motor Vehicle Collision, Interstate 85 South of Jimmy Carter Blvd.**

### **Factual Information**

#### **Pre Collision Events**

In the afternoon hours of June 20, 2009, a Chevrolet Trailblazer driven by Ms Alejandra Mejia went out of control on the southbound lanes of Interstate 85 south of Jimmy Carter Boulevard. The Trailblazer struck a BMW 318IS driven by Mr. Ashton Staniszewski. The Trailblazer subsequently was involved in a roll over, during which two of the vehicle's passengers were ejected and killed.

#### **Post Collision Events**

At 1:08 P.M., on June 20<sup>th</sup> 2009 the Gwinnett County 911 Call center received a report of a motor vehicle collision on I85 Southbound south of Jimmy Carter Blvd. near Norcross, GA in Gwinnett County.

At 1:08 P.M., Gwinnett County Police Communications dispatched Officer J. Santiago, #1122, to the collision location. Ofc. Santiago was assigned to District 1, West Precinct, zone 123 of the Gwinnett Police Department. Ofc. B. Pillon also started toward the location and was the first officer to arrive at 1:11 P.M.. Sgt D. Llorens #426, was the District 1 Supervisor on duty. At 1:13 P.M., he requested the Accident Investigation Unit be called out to the scene. On June 20, 2009, I was the on-call investigator for the unit. I arrived at the scene at 1:41 P.M. and assumed the role of lead investigator. One person was dead at the scene and was in the roadway covered by a white sheet. The body was subsequently identified as Graciela Villamizar. I spoke to Sgt. Llorens. He informed me that another person was severely injured and had been transported to Gwinnett Medical Center for treatment. That person was determined to be Francisco Javier Mejia. He was pronounced dead at Gwinnett Medical Center. Additionally, he said all passengers from vehicle one had been transported to local hospitals with less severe, non life threatening injuries. The driver of vehicle two was at the scene and uninjured.

Interstate 85 is a fully controlled access highway. This section of Interstate 85 runs from north to south and has no remarkable grades or curves. The posted speed limit is 55 miles per hour. It is comprised of six regular lanes and a seventh lane designated as a high occupancy vehicle lane and is bounded on the left by a solid yellow line and concrete median barrier. The lanes are separated by broken white lines. The right or west edge of the roadway is bounded by a white fog line. On this day the weather was clear and dry. I walked the length of the scene from north to south. I began where the first evidence of the collision appeared. Tire marks indicated where vehicle #1 began to lose control. This was demonstrated by a critical speed yaw mark going from right to left in a line curving counter clockwise and continuing in the direction of the final rest position of vehicle #1. See Figure 1.

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#### **COLLISION REPORT**

Inv. M. Ricciardi #729

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09-0059574



Figure 1: Roadway Evidence



Figure 2: Crash Debris

While I looked over the crash site; Inv. King marked the scene using green aerosol pavement marking paint for vehicle #1 and pink aerosol pavement marking paint for vehicle #2. Inv. Niziurski documented the scene with digital photographs of the roadway marks and documentary paint marks.

Following the previously noted critical speed yaw mark, it was clear the vehicle began to rotate counter clockwise due to steering input from the driver. During this maneuver, the right rear tire lost air pressure and the wheel created a deep gouge mark in the pavement. The other tires on the vehicle experienced pressure losses and the vehicle began to overturn. While the vehicle was overturning, two of the passengers previously described were ejected. While the tires of vehicle #1 were out of contact with the ground, they impacted the right windshield of vehicle #2 causing damage to the windshield and hood. The vehicle came to final rest in an upright attitude and facing generally north in relation to the roadway.



Figure 3: Gouge from right rear wheel.



Figure 4: Damage to vehicle #2.

**COLLISION REPORT**

Inv. M. Ricciardi #729

While looking over the involved vehicles, I found that the right rear tire of vehicle #1 had a foreign object imbedded in the center of the tread. It appeared that a screw or nail had penetrated the tire. See figure 4. This could account for that tire being compromised and losing pressure when the stresses of driver #1's steering input were applied to it. There was no evidence of vehicle collision prior to vehicle #1 losing control. Vehicles #1 and #2 were impounded and were escorted to the AIU impound lot at police headquarters by Sgt. T.W. Smith, #257 where they were held for further inspection.

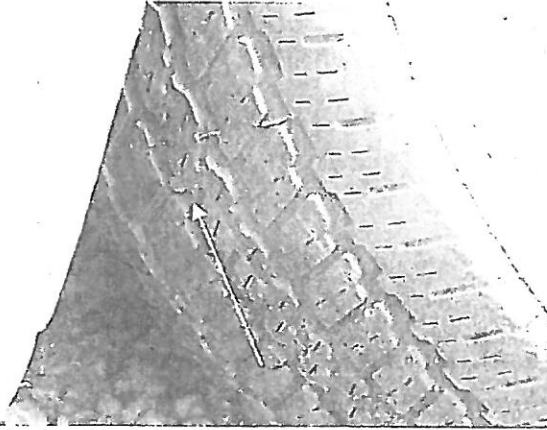


Figure 4: Foreign object in right rear tire.

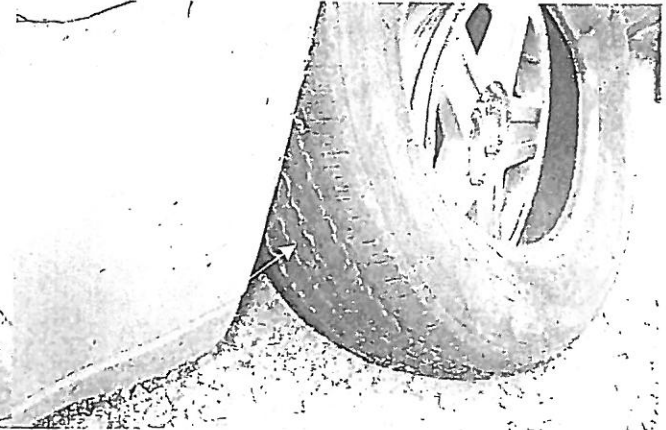


Figure 5: Foreign object in tire alternate view.

### Vehicle Inspection

On June 22, 2009, I inspected the vehicles involved in this collision at the Gwinnett County Police Headquarters.

I inspected the 1994 BMW. The vehicle displayed contact damage from impact caused by vehicle #2 landing on it as vehicle #2 overturned. The damage extended from the right front roof line above the windshield to the leading edge of the hood and included the right front fender and included the passenger "A" pillar. The imprint of a tire was clearly visible on the hood. All systems of the vehicle appeared to be in working order. Nothing was found that would be considered a contributing factor in this crash.



Figure 6: Contact damage caused by vehicle #1.



Figure 7: Damage to vehicle #1.

### COLLISION REPORT

Inv. M. Ricciardi #729

I inspected the 2003 Chevrolet Trail Blazer. I found the vehicle to have a sever amount of damage. The Trail Blazer showed extensive damage over the majority of the exterior surfaces. The vehicle showed extensive contact damage from the overturning and sliding on the roadway. All observed portions of the vehicle body were severely deformed. The vehicle's body panels exhibited extensive contact damage characterized by crumpled, torn and deeply abraded metal. The right front door had areas coated by dried red fluid that appeared to be blood. The roof had been removed by fire department personnel using hydraulic tools and door and window frames had been pried from their original positions in the same manner.

The vehicle was equipped with three General Meritrac P245/70R17 tires on the left and right front and right rear positions. A Lemans Pathmaker HT P245/70R17 was mounted on the left rear wheel. All tires had zero air pressure, and the left rear wheel assembly had been detached due to impact forces. All four wheel rims displayed deep abrasion caused by sliding on the roadway surface as the vehicle overturned. As mentioned previously, the right rear tire displayed a screw or nail in the center of the tread at about the 9 o'clock position. All tires had adequate tread depth for safe operation.

The vehicle was equipped with a manual transmission and the gear selector was in park at the time of inspection. The driver and passenger air bags had not deployed. The speedometer is an analog type and showed a reading of zero.

The vehicle interior was relatively intact with no indications of intrusion. The steering wheel appeared to be in its manufactured position. All passenger seats appear to be in their manufactured positions and intact. All seatbelts show evidence of being in use at the time of the crash as evidenced by extended locked position, blood staining on the exposed portion of the belt in the worn position or mechanically cut post crash during passenger extraction; with the exception being the second row center position which did not show signs of being in use at the time of the collision. This belt was fully retracted in the stowed position and moved freely.

The crash data recorder was downloaded by Inv. C.R. King, #930. The resulting data was view. It indicated that driver #1's seat belt was buckled. The system displayed data for a non airbag deployment. No other data relevant to this investigation was discovered.

There were no recalls found that could be interpreted as contributing factors in this crash.

### **Collision Analysis**

Vehicle #1, a 2003 Chevrolet Trailblazer, driven by Ms Maria A. Mejia, was traveling southbound on Interstate 85 in the third from the right lane. Vehicle #2, a 1994 BMW, driven by Mr. Ashton Staniszewski was in the lane adjacent and to the left of vehicle #1. Ms Mejia saw a vehicle to her right begin to change lanes and perceived that a collision was imminent. She forcefully steered her vehicle to the left in order to avoid an impact. This maneuver caused her vehicle to yaw counter clockwise. Some time during this yaw the right rear tire deflated, allowing the wheel rim to engage the pavement

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### **COLLISION REPORT**

and causing the vehicle to over turn multiple times. This event led to vehicle #1 landing on the front of vehicle #2 and continued to overturn, ejecting two of vehicle #1's passengers.

### **Conclusion:**

Initial questioning at the scene of the available witnesses and driver #2 indicated that driver #1 executed an evasive maneuver in response to a perception that collision with a vehicle in the lane to her right was imminent. The witnesses indicated that driver #1 "over reacted" to the other vehicle and that a collision was not imminent. This was reinforced by written statements made on the day of the wreck and in follow up interviews with witnesses. See written statements included in the exhibits section. Driver #1 held a class CP license, commonly known as a learners permit. The license was issued on August 7, 2008, a span of about 10 months prior to the accident. She was operating sport utility type vehicle with all eight seats occupied on a high speed controlled access highway. Mr. Luke Crown in his written witness statement dated June 24, 2009 says that he spoke with Driver #1 at the scene and she made the following statement: "It was all my fault, I shouldn't have been driving". It is plausible that driver #1's lack of driving experience, combined with highway speeds and an over reaction to the maneuver of another vehicle, caused her to swerve. The vehicle had a tire on the right rear that had been compromised by a foreign object. It would be expected that this tire was not at optimum air pressure due to air escaping past the embedded screw. This lower pressure would allow the tire to deflect when acted upon by the strain of sudden and vigorous steering input. Multiple witnesses describe vehicle #1 as "swerving, over correcting, fishtailing etc". This deflection would allow the wheel rim to make contact with the road surface. This was evidenced by the significant gouge mark located at the beginning of the crash scene. The vehicle began to overturn and two passengers were ejected and killed.

It is my opinion that a lack of driver experience, influenced by the prevailing traffic conditions, and aggravated by a compromised tire were the factors responsible for this crash.

I met driver #1 and her father, passenger #3, at the office of attorney John Collar at 400 Galleria Pkwy in Atlanta on August 10, 2009. This interview was conducted in order to determine if the family wished to pursue charges against driver #1 for vehicular homicide for the deaths of her grandmother and younger brother. It is the family's position that nothing would be accomplished by such action. This tragic event had deeply affected this family. In keeping with the family's wishes, no prosecution will be sought in this case.





















## **EXHIBIT 2 - PROOFS OF CLAIM**



V1.0a  
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Claims Information

Schedules & Statements

Media

Real Estate & Asset Sales

Investor Information

MLC Corporate Information

FAQ

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## Creditor Summary

Claims Information -> Claim Register -> Creditor Summary

| As Filed<br>Current Status | Count | Secured | Administrative | Priority | Unsecured       | Total           |
|----------------------------|-------|---------|----------------|----------|-----------------|-----------------|
| 6                          | 6     | \$0.00  | \$0.00         | \$0.00   | \$12,000,000.00 | \$12,000,000.00 |
| 6                          | 6     | \$0.00  | \$0.00         | \$0.00   | \$12,000,000.00 | \$12,000,000.00 |

### Filed Claim Lists

| Claim # | Creditor                                     | Filed Date | Filed Amount | Current Total  | Debtor         | Image                      |
|---------|--|------------|--------------|----------------|----------------|----------------------------|
| 71185   | ARANZUZA MEJIA                               | 6/17/2011  | 12:00:00     | AM2000000.0000 | 2000000.0000   | Motors Liquidation Company |
| 71186   | JUAN CARLOS MEJIA                            | 6/17/2011  | 12:00:00     | AM2000000.0000 | 2000000.0000   | Motors Liquidation Company |
| 71187   | MARIA ALEJANDRA MEJIA                        | 6/17/2011  | 12:00:00     | AM2000000.0000 | 2000000.0000   | Motors Liquidation Company |
| 71188   | ARANZUZA MEJIA AS GUARDIAN OF LUCAS MEJIA    | 6/17/2011  | 12:00:00     | AM2000000.0000 | 2000000.0000   | Motors Liquidation Company |
| 71189   | ARANZUZA MEJIA AS GUARDIAN OF SANTIAGO MEJIA | 6/17/2011  | 12:00:00     | AM2000000.0000 | 2000000.0000   | Motors Liquidation Company |
| 71190   | ARANZUZA MEJIA AS GUARDIAN OF NICOLAS MEJIA  | 6/17/2011  | 12:00:00     | AM2000000.0000 | 2000000.0000   | Motors Liquidation Company |
| 71190   | ARANZUZA MEJIA AS GUARDIAN OF NICOLAS MEJIA  | 06/17/2011 |              | \$2,000,000.00 | \$2,000,000.00 | Motors Liquidation Company |

Records  
per  
page: 25

Records: 1 - 6 of 6 - Pages: 1 2 3 4 5 6

Schedule # Creditor

Filed Date Scheduled Amount

There are no records available.

Debtor

Image

Records  
per  
page: 25

Records: 0 - 0 of 0 - Pages: 1 2 3 4 5 6

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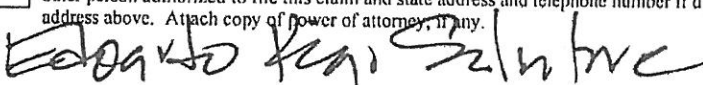
Home

Notes

September 15, 2011 @ 11:19:26 PM

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B 10 (Official Form 10) (04/10)

|  |   |   |
|--|---|---|
| <b>UNITED STATES BANKRUPTCY COURT</b> Southern District of New York  |   | <b>PROOF OF CLAIM</b>   |
| Name of Debtor: <b>GENERAL MOTORS CORPORATION</b>  |   | Case Number: <b>09-50026 (REG)</b>  |
| NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.  |   |   |
| Name of Creditor (the person or other entity to whom the debtor owes money or property):<br><b>ARANZUZA MEJIA</b>  |   | <input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.<br><br>Court Claim Number: _____<br>(If known)<br><br>Filed on: _____  |
| Name and address where notices should be sent:<br><br><div style="text-align: center;">                     Edoardo Rigo Salvatore, Esq.<br/> <b>SALVATORE &amp; NOKES, LLP</b><br/>                     410 Broadway, Suite 100<br/>                     Laguna Beach, CA 92651                 </div><br>Telephone number:<br>(949) 494-0909   |   |   |
| Name and address where payment should be sent (if different from above):<br><b>Same as above</b>   |   | <input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.<br><br><input type="checkbox"/> Check this box if you are the debtor or trustee in this case.   |
| Telephone number:  |   |   |
| 1. Amount of Claim as of Date Case Filed:      \$ <u>2,000,000.00</u><br><br>If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.<br><br>If all or part of your claim is entitled to priority, complete item 5.<br><br><input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.  |   | 5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.<br><br>Specify the priority of the claim.<br><br><input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).<br><br><input type="checkbox"/> Wages, salaries, or commissions (up to \$11,725*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. §507 (a)(4).<br><br><input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. §507 (a)(5).<br><br><input type="checkbox"/> Up to \$2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507 (a)(7).<br><br><input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. §507 (a)(8).<br><br><input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. §507 (a)( ).<br><br>Amount entitled to priority:<br>\$ _____<br><br><small>*Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</small> |
| 2. Basis for Claim: <u>Personal injury/Wrongful death on June 20, 2009. See attached.</u><br>(See instruction #2 on reverse side.)   |   |   |
| 3. Last four digits of any number by which creditor identifies debtor: _____<br><br>3a. Debtor may have scheduled account as: _____<br>(See instruction #3a on reverse side.)  |   |   |
| 4. Secured Claim (See instruction #4 on reverse side.)<br>Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.<br><br>Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other<br>Describe:<br><br>Value of Property: \$ _____ Annual Interest Rate _____ %<br><br>Amount of arrearage and other charges as of time case filed included in secured claim,<br>if any: \$ _____ Basis for perfection: _____<br><br>Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____ |   |   |
| 6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.  |   |   |
| 7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See instruction 7 and definition of "redacted" on reverse side.)<br><br>DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.<br><br>If the documents are not available, please explain:                               |   |   |
| Date:<br><b>06/16/2011</b>   | Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.<br><br><div style="text-align: center;">  </div> |   |
|  |   | FOR COURT USE ONLY  |

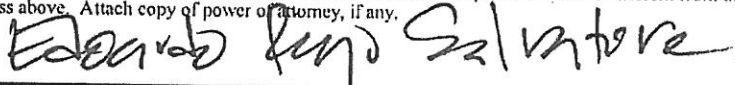
Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

B 10 (Official Form 10) (04/10)

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| <b>UNITED STATES BANKRUPTCY COURT</b> Southern District of New York  |  | <b>PROOF OF CLAIM</b>   |
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| Name of Creditor (the person or other entity to whom the debtor owes money or property):<br><b>JUAN CARLOS MEJIA</b>   |  | <input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.<br><br>Court Claim Number: _____<br>(If known)<br><br>Filed on: _____  |
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| Telephone number:<br><b>(949) 494-0909</b>   |  |   |
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| Telephone number:  |  |   |
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| 6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.  |  |   |
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| Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.<br><br>  |  |   |
| FOR COURT USE ONLY   |  |   |

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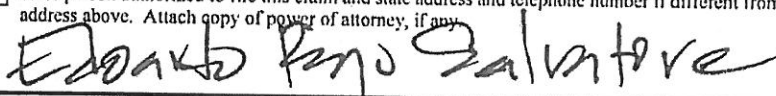
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B 10 (Official Form 10) (04/10)

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| Name of Creditor (the person or other entity to whom the debtor owes money or property):<br><b>ARANZUZA MEJIA as guardian of NICOLAS MEJIA</b>   |   | <input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.<br><br>Court Claim Number: _____<br>(If known)<br><br>Filed on: _____  |
| Name and address where notices should be sent:<br><div style="text-align: center; margin-top: 10px;"> <b>Edoardo Rigo Salvatore, Esq.</b><br/> <b>SALVATORE &amp; NOKES, LLP</b><br/> <b>410 Broadway, Suite 100</b><br/> <b>Laguna Beach, CA 92651</b> </div> Telephone number:<br><b>(949) 494-0909</b>  |   |   |
| Name and address where payment should be sent (if different from above):<br><b>Same as above</b><br><br>Telephone number:  |   | <input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.<br><br><input type="checkbox"/> Check this box if you are the debtor or trustee in this case.   |
| 1. Amount of Claim as of Date Case Filed:        \$ <u>2,000,000.00</u><br><br>If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.<br><br>If all or part of your claim is entitled to priority, complete item 5.<br><br><input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.  |   | 5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.<br><br>Specify the priority of the claim.<br><br><input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).<br><br><input type="checkbox"/> Wages, salaries, or commissions (up to \$11,725*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. §507 (a)(4).<br><br><input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. §507 (a)(5).<br><br><input type="checkbox"/> Up to \$2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507 (a)(7).<br><br><input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. §507 (a)(8).<br><br><input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. §507 (a)( ): _____<br><br>Amount entitled to priority:<br>\$ _____ |
| 2. Basis for Claim: <u>Personal injury on June 20, 2009. See attached.</u><br>(See instruction #2 on reverse side.)  |   | *Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.   |
| 3. Last four digits of any number by which creditor identifies debtor: _____<br><br>3a. Debtor may have scheduled account as: _____<br>(See instruction #3a on reverse side.)  |   |   |
| 4. Secured Claim (See instruction #4 on reverse side.)<br>Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.<br><br>Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other<br>Describe:<br><br>Value of Property: \$ _____ Annual Interest Rate _____ %<br><br>Amount of arrearage and other charges as of time case filed included in secured claim,<br>If any: \$ _____ Basis for perfection: _____<br><br>Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____   |   |   |
| 6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim<br><br>7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See instruction 7 and definition of "redacted" on reverse side.)<br><br>DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.<br><br>If the documents are not available, please explain: |   |   |
| Date:<br><b>06/16/2011</b>   | Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.<br><br><div style="text-align: center; font-family: cursive; font-size: 1.2em; margin-top: 10px;"> <b>Edoardo Rigo Salvatore</b> </div> |   |
|  |   | FOR COURT USE ONLY  |

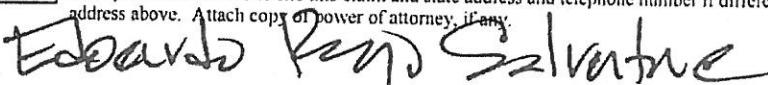
Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

B 10 (Official Form 10) (04/10)

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|--|---|---|
| <b>UNITED STATES BANKRUPTCY COURT</b> Southern District of New York  |   | <b>PROOF OF CLAIM</b>   |
| Name of Debtor:<br><b>GENERAL MOTORS CORPORATION</b>   |   | Case Number:<br><b>09-50026 (REG)</b>   |
| NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.  |   |   |
| Name of Creditor (the person or other entity to whom the debtor owes money or property):<br><b>ARANZUZA MEJIA as guardian of LUCAS MEJIA</b>   |   | <input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.  |
| Name and address where notices should be sent:<br><br><b>Edoardo Rigo Salvatore, Esq.<br/>SALVATORE &amp; NOKES, LLP<br/>410 Broadway, Suite 100<br/>Laguna Beach, CA 92651</b>  |   | Court Claim Number: _____<br>(If known)   |
| Telephone number:<br><b>(949) 494-0909</b>   |   | Filed on: _____   |
| Name and address where payment should be sent (if different from above):<br><b>Same as above</b>   |   | <input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.   |
| Telephone number:  |   | <input type="checkbox"/> Check this box if you are the debtor or trustee in this case.  |
| 1. Amount of Claim as of Date Case Filed: \$ <u>2,000,000.00</u>   |   | 5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.<br><br>Specify the priority of the claim.<br><br><input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).<br><br><input type="checkbox"/> Wages, salaries, or commissions (up to \$11,725*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. §507 (a)(4).<br><br><input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. §507 (a)(5).<br><br><input type="checkbox"/> Up to \$2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507 (a)(7).<br><br><input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. §507 (a)(8).<br><br><input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. §507 (a)( ).<br><br>Amount entitled to priority:<br>\$ _____ |
| If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.<br><br>If all or part of your claim is entitled to priority, complete item 5.<br><br><input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.   |   |   |
| 2. Basis for Claim: <u>Personal injury on June 20, 2009. See attached.</u><br>(See instruction #2 on reverse side.)  |   |   |
| 3. Last four digits of any number by which creditor identifies debtor: _____<br><br>3a. Debtor may have scheduled account as: _____<br>(See instruction #3a on reverse side.)  |   |   |
| 4. Secured Claim (See instruction #4 on reverse side.)<br>Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.<br><br>Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other<br>Describe:<br><br>Value of Property: \$ _____ Annual Interest Rate _____ %<br><br>Amount of arrearage and other charges as of time case filed included in secured claim,<br>if any: \$ _____ Basis for perfection: _____<br><br>Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____ |   |   |
| 6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.  |   |   |
| 7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See instruction 7 and definition of "redacted" on reverse side.)<br><br>DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.<br><br>If the documents are not available, please explain:                               |   |   |
| Date:<br><b>06/16/2011</b>   | Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.<br><br> |   |
|  |   | <b>FOR COURT USE ONLY</b>   |

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

B 10 (Official Form 10) (04/10)

|   |  |  |
|---|--|--|
| <b>UNITED STATES BANKRUPTCY COURT</b> Southern District of New York   |  | <b>PROOF OF CLAIM</b>  |
| Name of Debtor:<br><b>GENERAL MOTORS CORPORATION</b>  |  | Case Number:<br><b>09-50026 (REG)</b>  |
| NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.   |  |  |
| Name of Creditor (the person or other entity to whom the debtor owes money or property):<br><b>ARANZUZA MEJIA as guardian of SANTIAGO MEJIA</b>   |  | <input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.<br><br>Court Claim Number: _____<br>(If known)<br><br>Filed on: _____   |
| Name and address where notices should be sent:<br><div style="text-align: center;"> <b>Edoardo Rigo Salvatore, Esq.</b><br/> <b>SALVATORE &amp; NOKES, LLP</b><br/> <b>410 Broadway, Suite 100</b><br/> <b>Laguna Beach, CA 92651</b> </div> Telephone number:<br><b>(949) 494-0909</b>   |  |  |
| Name and address where payment should be sent (if different from above):<br><b>Same as above</b><br><br>Telephone number:   |  | <input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.<br><br><input type="checkbox"/> Check this box if you are the debtor or trustee in this case.  |
| 1. Amount of Claim as of Date Case Filed: \$ <u>2,000,000.00</u><br><br>If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.<br><br>If all or part of your claim is entitled to priority, complete item 5.<br><br><input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.  |  | 5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.<br><br>Specify the priority of the claim.<br><br><input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).<br><br><input type="checkbox"/> Wages, salaries, or commissions (up to \$11,725*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. § 507 (a)(4).<br><br><input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. § 507 (a)(5).<br><br><input type="checkbox"/> Up to \$2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. § 507 (a)(7).<br><br><input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. § 507 (a)(8).<br><br><input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. § 507 (a)( ).<br><br>Amount entitled to priority:<br>\$ _____ |
| 2. Basis for Claim: <u>Personal injury on June 20, 2009. See attached.</u><br>(See instruction #2 on reverse side.)<br><br>3. Last four digits of any number by which creditor identifies debtor: _____<br><br>3a. Debtor may have scheduled account as: _____<br>(See instruction #3a on reverse side.)  |  |  |
| 4. Secured Claim (See instruction #4 on reverse side.)<br>Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.<br><br>Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other<br>Describe:<br><br>Value of Property: \$ _____ Annual Interest Rate _____ %<br><br>Amount of arrearage and other charges as of time case filed included in secured claim,<br>if any: \$ _____ Basis for perfection: _____<br><br>Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____  |  |  |
| 6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.<br><br>7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See instruction 7 and definition of "redacted" on reverse side.)<br><br>DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.<br><br>If the documents are not available, please explain: |  | *Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.  |
| Date: <u>06/16/2011</u><br><br>Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.<br><div style="text-align: center;">  </div>  |  | FOR COURT USE ONLY   |

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

**PROOF OF SERVICE**

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am over the age of 18, employed in the County of Orange, State of California, and not a party to the within action; my business address is 1820 N. Bush Street, Santa Ana, CA 92706.

On **September 19, 2011**, I served a copy, with all exhibits and attachments, of the foregoing document described as **CLAIMANT'S RESPONSE TO THE 245TH OMNIBUS OBJECTION TO CLAIMS AND CLAIMANTS' OPPOSITION TO MOTION REQUESTING ENFORCEMENT OF BAR DATE ORDERS** on the party or parties named below, by placing a true copy thereof enclosed in sealed envelopes, and sent as follows:

**See Attached Service List**

\_\_\_\_ BY MAIL as follows: I am "readily familiar" with the firm's practice of collecting and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on the same day with postage thereon fully prepaid at Santa Ana, California in the ordinary course of business. I sealed the envelope and placed it for collection and mailing on said date following ordinary practices. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.

X BY PERSONAL SERVICE: I caused such document(s) to delivered by hand to the offices of the addressee(s) listed above.

\_\_\_\_ STATE: I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

X FEDERAL: I declare that I am employed in the office of a member of a bar of this court whose direction the service was made.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **September 19, 2011** at Santa Ana, California.

  
SUSAN MCGRATH

IN RE: MOTORS LIQUIDATION COMPANY  
USBK Case No.: 09-50026 (REG)

SERVICE LIS

|   |                         |
|---|-------------------------|
| DICKSTEIN SHAPIRO, LLP<br>Attn: Barry N. Seidel, Esq.<br>1633 Broadway<br>New York, NY 10019-6708<br>Tel: (212) 277-6500<br>Fax: (212) 277-6501   | Attorneys for GUC Trust |
| Debtors<br>c/o Motors Liquidation Company<br>Attn: Thomas Morrow<br>401 South Old Woodward Avenue<br>Suite 370<br>Birmingham, Michigan 48009<br>Tel: (248) 594-4829                           | Debtors                 |
| General Motors, LLC<br>Attn: Lawrence S. Buonomo, Esq.<br>400 Renaissance Center<br>Detroit, Michigan 48265<br>Tel: (313) 665-7390<br>Fax: (248) 267-4291<br>Email: lawrence.s.buonomo@gm.com | General Motors, LLC     |